

REMARKS

I. Status of the Claims

Claims 1-6, 8, and 10 are pending in the present application. Claims 2-6 and 10 previously were found to be allowable. Claims 7 and 9 are cancelled herein without prejudice. Claim 1 has been amended herein. That amendment does not add new matter.

II. Claim Rejection under 35 U.S.C. § 103(a)

Claims 1 and 7-9 have been rejected as unpatentable under 35 U.S.C. § 103(a) over U.S. Patent Application Publication No. 2004/0235905 to Koskelainen et al. ("Koskelainen"). Based on Koskelainen's 102(e) date, the Examiner asserts that it would have been obvious to one of skill in the art to modify the attachment point of the substituents of the Koskelainen compounds to arrive at that present invention. Applicants respectfully traverse this rejection. Further § 103(c), Applicants respectfully submit that Koskelainen is not applicable prior art. M.P.E.P. 706.02(I)(1). § 103(c) states that effective November 29, 1999, subject matter which was prior art under 35 U.S.C. § 102(e) is now disqualified as prior art against the claimed invention if that subject matter and the claimed invention "were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

Koskelainen, corresponding to U.S. Patent Application No. 10/482,396, has been duly assigned to Orion Corporation, as indicated by the executed assignment recorded at Reel 015437, Frame 0093, recorded on June 8, 2004. The present application is also assigned to Orion Corporation, as indicated by the attached copy of the executed

assignment filed in this case. For at least the reasons expressed above, this rejection should be withdrawn.

III. Non-statutory Obviousness-type Double Patenting

The Examiner has rejected claims 1-9 on the ground of non-statutory obviousness-type double patenting over Koskelainen (U.S. Appln. No. 10/482,396).

Applicants respectfully request that this rejection be held in abeyance until allowable subject matter is indicated in the present application. See M.P.E.P § 804(I)(B).

IV. Rejection under 35 U.S.C. § 112 - Lack of Enablement

Claims 7 and 9 were rejected under 35 U.S.C. § 112, first paragraph, for lack of an enabling disclosure. Although Applicants traverse this rejection, claims 7 and 9 have been cancelled without prejudice. Therefore, this rejection should be withdrawn.

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this Amendment and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

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By: Jill K. MacAlpine
Jill K. MacAlpine
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